



August 1, 2013

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: In the Matter of Expanding the Economic and Innovation Opportunities of
Spectrum Through Incentive Auctions, GN Docket No. 12-268, Notice of
Ex Parte Communication

Dear Ms. Dortch,

On Tuesday, July 30, 2013, Gordon Smith, Rick Kaplan, and Jane Mago of the National Association of Broadcasters (NAB), met with Acting Chairwoman Mignon Clyburn, Dave Grimaldi, Louis Peraertz, Michele Ellison, Sarah Whitesell and Gary Epstein. In a separate meeting that day covering substantially the same topics, Mr. Smith, Mr. Kaplan and Ms. Mago also met with Commissioner Jessica Rosenworcel, David Goldman and Alex Hoehn-Saric. This letter covers both of those meetings.

In the meetings, NAB reiterated its previously expressed points that the Federal Communications Commission would be best served if it were transparent and engaged more directly with outside stakeholders regarding the upcoming incentive auction. NAB offered two examples in particular: (1) repacking and (2) international coordination. NAB also again urged the Commission to lift the freeze on station modification applications or, in lieu of lifting the freeze, move immediately to an order that determines which stations can participate and the extent of their protection in the incentive auction.

With respect to repacking, NAB noted that additional information recently released by the Commission on potential inputs into the repacking software is helpful, but there is a more pressing need to make public the repacking model itself. No one outside of the Commission and its contractors has any information about the key decisions in development of the not-yet-released model or any information regarding the timeline for the model's release. NAB explained that the staff could save significant time and effort by engaging stakeholders *at this juncture* instead of waiting

until the final proposal is complete. Having public and ex parte conversations about the substance and direction of the model might help the Commission identify problems and concerns up front, rather than waiting for a final output that may require significant after-the-fact revisions. NAB reiterated that there is no more important and complex piece to the auction than repacking, and we are eager to assist in making it a success.

With regard to coordination with Canada and Mexico, NAB again urged transparency and engagement. In particular, if outside stakeholders can engage on the substance of efforts to coordinate internationally, they will be in a better position to assist the Commission on this essential piece. NAB in particular has some of the leading engineering minds at its disposal for developing an international broadcast coordination plan, and can offer its unique experience to the process. Indeed, NAB has submitted two letters to the Commission on the issue: a five-point plan for expedited international coordination;¹ and a joint letter with the Consumer Electronics Association² encouraging the Commission to develop a working group with industry to best effectuate a border transition plan.

In the meeting with Acting Chairwoman Clyburn and her staff, NAB also discussed the Department of Defense's (DOD) recent "compromise" proposal to open up the 1755-1780 MHz band, and move certain federal systems into the BAS spectrum. At the outset, we made clear that, unlike other industries, we are open to exploring sharing arrangements and will lend any technical expertise necessary to evaluate whether sharing in particular scenarios is possible without causing harmful interference. We expressed our surprise at this proposal, however, for two primary reasons. First, no one from DOD or the Administration had engaged in any substantive conversations with NAB or any affiliated organization prior to the public announcement of the compromise proposal. Second, just last year, NTIA evaluated

¹ See Letter from Rick Kaplan, Executive Vice President, Strategic Planning, NAB, to Gary Epstein, Incentive Auction Task Force Chair, *et al.*, in GN Docket No. 12-268 (filed March 7, 2013).

² See Letter from Rick Kaplan, Executive Vice President, Strategic Planning, NAB, and Julie Kearney, Vice President, Regulatory Affairs, CEA, to Chairwoman Mignon Clyburn, in GN Docket No. 12-268 (filed May 30, 2013).

the possibility of sharing in the BAS band and concluded repeatedly for various systems that sharing was not possible.³

We also explained that broadcasters just recently completed a large-scale consolidation of our operations in the band. Three years ago, we completed a transition from using 120 megahertz for our electronic newsgathering operations (ENG) to 85 megahertz in the BAS band. We make full use of this spectrum, as it is essential to our newsgathering efforts, especially in times of crisis, such as the first-rate local coverage of the Boston bombing and its aftermath. Once again, NAB expressed its willingness to work with DOD, but wanted to ensure a fair process that protected important services from interference.

Finally, NAB urged the Commission not to rely on faulty or undercounted estimates of over-the-air viewership for broadcast stations. The number of US households that rely solely on over-the-air television is significant and growing. NAB cited the most recent report from GfK Media and Entertainment's Home Technology Monitor, which NAB believes is more accurate than other estimates. GfK, an independent research service, estimates that 19.3 percent of US TV households rely exclusively on over-the-air signals to watch TV. This number is up from 17.8 percent in 2012 and 14 percent in 2010. NAB also emphasized that broadcast only levels are even higher among minority, low income and younger households and that minorities make up 41 percent of all broadcast only households. On this point, NAB noted that the percentages of over-the air reliant Latino, Asian and African-American households are 25, 23 and 22 percent, respectively.

NAB reiterated its desire and commitment to work with the Commission and all interested stakeholders to resolve outstanding issues and move forward as expeditiously as possible toward a successful auction.

³ See U.S. Dept. of Commerce Report, "An Assessment of the Viability of Accommodating Wireless Broadband in the 1755-1780 MHz Band," at 28, 29, 32, 34, 35, 38, 39, and 41 (March 2012), *available at*: http://www.ntia.doc.gov/files/ntia/publications/ntia_1755_1850_mhz_report_march2012.pdf.

Marlene H. Dortch
August 1, 2013
Page 4

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Rick Kaplan', with a long horizontal line extending to the right.

Rick Kaplan
Executive Vice President, Strategic Planning

CC: Acting Chairwoman Mignon Clyburn
Commissioner Jessica Rosenworcel
Dave Grimaldi
Louis Peraertz
Michele Ellison
Sarah Whitesell
Gary Epstein
David Goldman
Alex Hoehn-Saric